IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

MFA.No. 1022 of 2001()

OP(MV).239/1993 of MOTOR ACCIDENT CLAIMS TRIBUNAL, IRINJALAKUDA
.....

APPELLANT: PETITIONER

DAISY ALAPPAT, ALAPPAT HOUSE,
VADAMA DESOM, MALA VILLAGE,
MUKUNDAPURAM TALUK.

BY ADV. SRI.P.V.BABY
SRI.A.N.SANTHOSH

RESPONDENTS: RESPONDENTS
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1. K.V.DEVASSY, KATHIYADAN HOUSE,
MUTTATHARAYI, KURUPPAMPADY,
RAYAMANGALAM VILLAGE, ERNAKULAM.

2. ORIENTAL INSURANCE COMPANY LTD.,
ANGAMALY.

ADDL.3. B.JAYAKUMAR, KAIPPITTIL HOUSE,
MANIKKAMANGALAM, ERNAKULAM.

'' 4. DEVASSY, KOLLANAKKAL HOUSE,
ANGAMALY.

' 5. NATIONAL INSURANCE CO.LTD., ERNAKULAM.

" 6. THE DIRECTOR, ST.ANTONY'S MISSION
HOSPITAL, THRISSUR.

tss

" 7. JOSE @ OUSEPH, PALLAKKAL HOUSE,

MULAMKUNNATHKAVU P.O., THRISSUR.

" 8. NATIONAL INSURANCE CO. LTD., THRISSUR.

BY ADV. SRI.JOE KALLIATH - R5 & R8
SRI.M.JACOB MURICKAN - R2
SRI.P.AYYAPPAN - R1

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

tss

J.B.KOSHY & V.GIRI, JJ.

M.F.A.No.1022 of 2001

Dated this the 10th day of August, 2007.

JUDGMENT

Koshy, J.

The appellant/claimant met with a motor accident. She suffered fracture of both bones right and left (Ischio pubic ramus). There was displacement of upper incisor, apart from lacerated wounds. She claimed a sum of Rs.1,50,000/- as total compensation. The tribunal has awarded Rs.34,330/-. The tribunal found that the accident occurred due to the negligence of the first respondent driver and the offending vehicle was insured by the 2nd respondent. Only the quantum of compensation is disputed in this appeal.

2. The salary certificate shows that she was getting a monthly income of Rs.1,615/-. It is her case that being a nurse, her salary is likely to be increased. Future prospects also should be taken into account. The tribunal fixed only Rs.1,000/- as the monthly income for no reason whatsoever, even though she was a staff nurse (tutor) attached to the Jubilee Mission Hospital, Thrissur. We are of the opinion that in

her case, the tribunal ought to have, considering the future prospects, taken at least Rs.1,750/- as the monthly income.

3. With regard to the injuries, Ext.A42 is the copy of the wound certificate, which shows the following injuries.

> ***"Head injury, tear of the lower lip, injury neck, injury pelvis.***
>
> ***Ext.A43 is the discharge summary issued from Lissy Hospital, Kochi wherein it is noted that the petitioner was admitted as inpatient in that hospital on 4.3.93 and was discharged on 6.3.93. The injuries sustained by the petitioner were noted in Ext.A43, as complaint of pain neck, pain right hip, cut on the lip-involving the junction, tenderness pelvis, X-ray revealed undisplaced fracture, bilateral superior pubic ramus and was advised bed rest for 3 weeks. Ext.A44 is the discharge summary issued from Jubilee Mission Hospital, Thrissur wherein it is certified that the petitioner was admitted in that hospital as inpatient on 6.3.93 and was discharged on 30.3.93. X-ray findings were noted as "Bilateral superior pubic ramus fracture, sprain certical spine, injury lip." Ext.A45 is the admission discharge summary issued from Jubilee Mission Hospital, Thrissur wherein it is noted that the petitioner was admitted in that hospital as inpatient from 6.3.93 to 30.3.93 and sustained fracture superior Ischiopubic ramus (bilateral) and there was lacerated wound on the upper lip, which was sutured by 7 stitches. Ext.A46 is the certificate issued on 6.8.99 by***

> ***Dr.Jose Kurian Kattukkaran, Orthopaedic Surgeon at Government Taluk Hospital, Chalakkudy wherein it is certified that that the petitioner sustained permanent disability of 11%, she being a Tutor. The difficulties of the petitioner due to injuries caused in the accident were described in detail in Ext.A46".***

4. The tribunal has arbitrarily assessed only 5% disability. We are of the opinion that considering the disabilities and the treatment concerned, there is no reason for any reduction in the disability certified by the doctor and at least, compensation ought to have been granted for 10% disability. In that case, the compensation is calculated as below:

1750 x 12 x 16 x 10/100 = Rs.33600/-.

The additional compensation payable to the appellant on account of disability will be Rs.12,800/-. It is submitted that she has produced medical bills amounting to Rs.11,769/-. The tribunal has awarded only Rs.7,500/-. We are of the opinion that an additional amount of Rs.3,200/- should be granted on that ground. The total additional compensation payable will be Rs.16,000/-. We are not inclined to enhance the compensation on other heads. The additional compensation of Rs.16,000/-

now awarded should be deposited by the insurance company with 7.5% interest from the date of application till the date of deposit. On such deposit, the appellant will be entitled to withdraw the said sum.

Appeal is allowed to this extent.

Sd/-
(J.B.KOSHY)
JUDGE

Sd/-
(V.GIRI)
JUDGE

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J.B.KOSHY & V.GIRI, JJ.

M.F.A.No.1022 of 2001

JUDGMENT

10TH AUGUST, 2007.